

ESTTA Tracking number: **ESTTA678171**Filing date: **06/15/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following parties request to cancel indicated registration.

**Petitioner Information**

Name	ASOS PLC		
Entity	Public Company	Citizenship	United Kingdom
Address	Greater London House Hampstead Road London, NW1 7FB UNITED KINGDOM		

Name	ASOS.COM Limited		
Entity	Private Limited Company	Citizenship	United Kingdom
Address	Greater London House Hampstead Road London, NW1 7FB UNITED KINGDOM		

Attorney information	Julia Anne Matheson Finnegan Henderson Farabow Garrett & Dunner LLP 901 New York Avenue, NW Washington, DC 20001 UNITED STATES docketing@finnegan.com, julia.matheson@finnegan.com, laura.johnson@finnegan.com, TTAB-Legal-Assistants@finnegan.com Phone:202-408-4000
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**Registration Subject to Cancellation**

Registration No	4152198	Registration date	06/05/2012
International Registration No.	NONE	International Registration Date	NONE
Registrant	Roger MAIER via Bresce, 1  SWITZERLAND		

**Goods/Services Subject to Cancellation**

Class 003. First Use: 0 First Use In Commerce: 0 Cancelled goods and services in the class: After-shaves, make-up, perfumery, cosmetics, cosmetic creams for skin care, soaps, essential oils, hair lotions; dentifrices
Class 005. First Use: 0 First Use In Commerce: 0 Cancelled goods and services in the class: dietetic foods adapted for medical use; medical plasters; food supplements for medical purposes, namely, mineral and vitamin supplements
Class 018. First Use: 0 First Use In Commerce: 0 Cancelled goods and services in the class: Leather and imitations of leather and goods made of these materials and not included in other classes, namely, belts, wallets, purses, key-rings, pen holders and duffel bags; trunks, parasols; leather cases; purses, handbags; key cases; valises; plastic baggage labels; pouches of leather; purses; saddlebags; school bags

Class 025. First Use: 0 First Use In Commerce: 0

Cancelled goods and services in the class: Dresses, hats, belts, skirts, jackets, sweaters, smocks, dressing gowns, housecoats, bathing suits, underwear, stockings, neckties, scarves, gloves, capes, trousers, parkas, pajamas, fur coats, fur jackets, pullovers, garters, brassieres, footwear, shawls, sashes for wear, overcoats, stoles, dungarees, boots, shirts, breeches, briefs, jeans, wrap-arounds, hosiery

## Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	2016.06.15 Asos Petition for Cancellation.pdf(82549 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Julia Anne Matheson/
Name	Julia Anne Matheson
Date	06/15/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ASOS PLC and ASOS.COM LIMITED,

Petitioners,

v.

Roger Maier,

Registrant.

Cancellation No.:


Mark: A ASSOS & Design

Registration No.: 4152198

Issued: June 5, 2012

**PETITION FOR PARTIAL CANCELLATION**

ASOS PLC and ASOS.COM Limited (collectively, “ASOS” or “Petitioners”), believe that they are being and will be damaged by the continued registration of Registration No.

4152198 for the mark  (A ASSOS & Design) covering select goods, and hereby petition to cancel same for the reasons detailed below. As grounds for its petition, Petitioners allege the following, upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to other matters:

**Petitioners and Their Use of the ASOS Mark**

1. Petitioner ASOS PLC is a public company organized and existing under the laws of the United Kingdom, having a principal place of business at Greater London House, Hampstead Road, London, NW1 7FB, United Kingdom.

2. Petitioner ASOS.COM Limited is a private limited company organized and existing under the laws of the United Kingdom, with a principal place of business at Greater London House, Hampstead Road, London NW1 7FB, United Kingdom.

3. ASOS is an online fashion and beauty retailer operating from its website at [www.asos.com](http://www.asos.com) (and its 8 country specific websites and mobile apps, including the U.S. ASOS

website located at us.asos.com). ASOS' websites are visited by millions of shoppers and fashion-lovers around the world and across the U.S. every day. ASOS offers "fast fashion" aimed at twenty-something women and men, namely, clothing and fashion accessories that reflect fast-moving fashion trends.

4. ASOS has been exclusively an Internet retailer since its launch in June 2000 under the original name "AsSeenOnScreen." Almost immediately, the business started to use the shortened name ASOS in place of "AsSeenOnScreen." ASOS' revised branding, featuring the ASOS mark in a logo form, was incorporated onto the [www.asseenonscreen.com](http://www.asseenonscreen.com) website in 2002. In July 2003, ASOS completed the transition of its brand name from AsSeenOnScreen to ASOS, formally changing its corporate name, and shifting its online "shop front" from [www.asseenonscreen.com](http://www.asseenonscreen.com) to [www.asos.com](http://www.asos.com).

5. Since its inception in 2000, ASOS' website, products, and services have been fully accessible to consumers in the United States.


6. In around 2005, ASOS launched its own line of fashion women's clothing under the ASOS brand. The success of these ASOS branded products led to its expansion into men's apparel and men's and women's footwear, bags and fashion accessories, and jewelry, all sold exclusively through the ASOS websites. These products have been available for viewing and purchase by U.S. consumers since their respective product category launches.

7. Over the past decade, ASOS has become an online retail success across the globe, including in the U.S.

#### **Maier and His Registration and Use of the A ASSOS & Design Mark**


8. Registrant Roger Maier ("Maier" or "Registrant"), is a Swiss individual with an address at Via Bresce, 1 CH-6854, San Pietro di Stabio, Switzerland.

9. Maier is the current Chief Executive Officer of Assos of Switzerland, a Swiss cycling company whose core products range are a range of high performance, highly engineered and specialized cycling apparel and accessories designed to appeal professional, semi-professional, and dedicated amateur cyclists. Its core products include a range of cycling shorts, cycling jerseys, all-in-one body cycling suits, cycling tights, cycling base layers, cycling arm, leg, and knee warmers, cycling gloves, cycling jackets and vests, cycling socks, cycling hats, and cycling shoe covers.

10. On January 21, 2010, Roger Maier filed a Swiss trademark application for the mark  covering the following goods and services:

- Class 03: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soap; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
- Class 05: Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for dental fillings and dental impressions; disinfectants; pesticides; fungicides, herbicides.
- Class 09: Protective helmets for sports.
- Class 12: Vehicles; apparatus for locomotion by land, air or water.
- Class 18: Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins; trunks and traveling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- Class 25: Clothing, footwear, headgear.
- Class 41: Education; providing of training; entertainment; sporting and cultural activities.

The Swiss application matured to Swiss Reg. No. 603120 on July 21, 2010.

11. On December 23, 2010, Maier filed an extension of protection of Swiss Reg. No. 603120 for the mark  with the U.S. Patent and Trademark Office

pursuant to Section 66(a) of the Madrid Protocol, 15 U.S.C. § 1141(f), claiming a July 21, 2010 priority date pursuant to Section 67 of the Madrid Protocol, 15 U.S.C. § 1141(g). That U.S. extension of protection was assigned U.S. Application Serial No. 79/090,301.

12. While Application No. 79/090,301 was based on Maier's Swiss Registration, Maier chose to file in the U.S. for a narrower range of goods and services in Classes 3, 5, 12, 18, 25, and 41, as follows:

- Class 03: After-shaves, make-up, perfumery, cosmetics, cosmetic creams for skin care, body creams, soaps, essential oils, hair lotions; dentifrices.
- Class 05: Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use; plasters, materials for dressings; disinfectants; food supplements, mineral and vitamin supplements.
- Class 12: Bicycles and component parts thereof, namely, frames, handlebars, posts, seat posts, saddles, seats, wheels, pneumatic tires, brakes, brake levers, bicycle chains, hubs, axles, levers, kickstands for bicycles, mudguards, handlebar accessories for bicycles, pedals and water bottle clips.
- Class 18: Leather and imitations of leather and goods made of these materials and not included in other classes; trunks and traveling bags, umbrellas, parasols, backpacks, bags; leather cases; purses, credit card holders, sports bags, handbags; key cases; sports and leisure bags; travel baggage; valises; baggage labels; wallets; pouches of leather; purses; saddlebags; school bags.
- Class 25: Dresses, caps, hats, belts, skirts, jackets, coats, sweaters, singlets, smocks, dressing gowns, housecoats, bathing suits, underwear, stockings, socks, neckties, scarves, gloves, capes, trousers, slippers, parkas, pajamas, fur coats, fur jackets, pullovers, garters, brassieres, sandals, footwear, shawls, sashes for wear, overcoats, stoles, dungarees, boots, tee-shirts, shirts, breeches, shorts, briefs, jeans, wraparounds, eyeshades, hosiery, sleeveless jackets, attachable sleeves, sportswear namely cyclists' clothing; gloves of leather, jackets of leather and suede.
- Class 41: Training in the field of sports, entertainment services, namely organizing exhibitions for sports purposes in the field of sports, sports activities, namely organizing cycling competitions.

13. During prosecution of Application No. 79/090,301, Maier voluntarily further limited his Class 5, 12, 18, 25, and 41 identification of goods and services to the following:

- Class 05: sanitary preparations for medical purposes; dietetic foods adapted for medical use; medical plasters; food supplements for medical purposes, namely, mineral and vitamin supplements
- Class 12: Bicycles and component parts thereof, namely, frames, handlebars, posts, seat posts, saddles, seats, wheels, pneumatic tires, brakes, brake levers, bicycle chains, hubs, axles, levers, kickstands for bicycles, mudguards, handlebar accessories for bicycles, namely, bicycle grip tape, bicycle horns, bicycle bells and baskets, pedals and water bottle clips specifically adapted for use on bicycles.
- Class 18: Leather and imitations of leather and goods made of these materials and not included in other classes, namely, belts, wallets, purses, key-rings, pen holders and duffel bags; trunks and traveling bags, umbrellas, parasols, backpacks, all-purpose carrying bags; leather cases; purses, credit card holders, sports bags, handbags; key cases; sports and all-purpose leisure bags; travel baggage; valises; plastic baggage labels; wallets; pouches of leather; purses; saddlebags; school bags.
- Class 25: Dresses, caps, hats, belts, skirts, jackets, coats, sweaters, singlets, smocks, dressing gowns, housecoats, bathing suits, underwear, stockings, socks, neckties, scarves, gloves, capes, trousers, slippers, parkas, pajamas, fur coats, fur jackets, pullovers, garters, brassieres, sandals, footwear, shawls, sashes for wear, overcoats, stoles, dungarees, boots, tee-shirts, shirts, breeches, shorts, briefs, jeans, wraparounds, eyeshades, hosiery, sleeveless jackets, attachable sleeves, sportswear namely cyclists' clothing, namely, bicyclist jerseys, bicyclist pants and bicyclist gloves; gloves of leather, jackets of leather and suede.
- Class 41: Training in the field of sports; entertainment services, namely, organizing of exhibitions for sports purposes in the field of sports; organization of sports activities, namely, organization of cycling competitions.


14. Application No. 79/090,301 matured to registration on June 5, 2012, and was assigned Registration No. 4152198.


15. Maier, through his licensee Assos of Switzerland SA, does not use the mark



per se (e.g., without additional wording or design elements) on the goods identified in Registration No. 4152198. Instead, Maier, through his licensee Assos of Switzerland SA, incorporates the mark into the following logos -



16. In the three years since issuance of Registration No. 4152198, neither Maier nor any licensee has used the mark  per se on any products identified in Registration No. 4152198.

17. Additionally, in the three years since issuance of Registration No. 4152198, neither Maier, nor any licensee, has made any use of the mark  on any of the following goods covered by the subject registration:


- Class 03: “after-shave;” “make-up;” “perfumery;” “cosmetics;” “cosmetic creams for skin care;” “soaps;” “essential oils;” “hair lotions;” and “dentifrices”
- Class 05: “dietetic foods adapted for medical use;” “medical plasters;” and “food supplements for medical purposes, namely, mineral and vitamin supplements”
- Class 18: “leather and imitations of leather and goods made of these materials and not included in other classes, namely, belts, wallets, purses, key-rings, pen holders, and duffel bags;” “trunks;” “parasols;” “leather cases;” “purses;” “handbags;” “key cases;” “valises;” “plastic baggage labels;” “pouches of leather;” “purses;” “saddlebags;” “school bags”
- Class 25: “dresses;” “hats;” “belts;” “skirts;” “coats;” “sweaters;” “smocks;” “dressing gowns;” “housecoats;” “bathing suits;” “underwear;” “stockings;” “neckties;” “scarves;” “gloves;” “capas;” “trousers;” “parkas;” “pajamas;” “fur coats;” “fur jackets;” “pullovers;” “garters;” “brassieres;” “footwear;” “shawls;”



“sashes for wear;” “overcoats;” “stoles;” “dungarees;” “boots;” “shirts;” “breeches;” “briefs;” “jeans;” “wraparounds;” and “hosiery”

(collectively, “Abandoned Goods”).


18. On July 16, 2013, Maier, along with his father Anton Maier filed a civil complaint in the United States District Court of Maryland charging ASOS with trademark infringement, trademark counterfeiting, false designation of origin, unfair competition, and reverse confusion under the Lanham Act and common-law trademark infringement and unfair competition (“the Maryland litigation”)—all of which ASOS denies.


19. Maier is asserting rights in his  Registration No. 4152198 to support his, and his father Anton Maier’s, purported claims in the Maryland litigation.


### **Non-Use and Abandonment**

20. Petitioners repeat and reallege each and every allegation set forth in each of the preceding Paragraphs.

21. Registrant does not, nor has he ever, himself or through his company Assos of Switzerland SA, offered or sold the Abandoned Goods, namely, “after-shave;” “make-up;” “perfumery;” “cosmetics;” “cosmetic creams for skin care;” “soaps;” “essential oils;” “hair lotions;” and “dentifrices” in Class 3, “dietetic foods adapted for medical use;” “medical plasters;” and “food supplements for medical purposes, namely, mineral and vitamin supplements” in Class 5, “leather and imitations of leather and goods made of these materials and not included in other classes, namely, belts, wallets, purses, key-rings, pen holders, and duffel bags;” “trunks;” “parasols;” “leather cases;” “purses;” “handbags;” “key cases;” “valises;” “plastic baggage labels;” “pouches of leather;” “purses;” “saddlebags;” “school bags” in Class 18, and “dresses;” “hats;” “belts;” “skirts;” “coats;” “sweaters;” “smocks;” “dressing gowns;”

“housecoats;” “bathing suits;” “underwear;” “stockings;” “neckties;” “scarves;” “gloves;”  
“cap es;” “trousers;” “parkas;” “pajamas;” “fur coats;” “fur jackets;” “pullovers;” “garters;”  
“brassieres;” “footwear;” “shawls;” “sashes for wear;” “overcoats;” “stoles;” “dungarees;”  
“boots;” “shirts;” “breeches;” “briefs;” “jeans;” “wraparounds;” and “hosiery” in Class 25, in the  
United States under the mark .

22. Registrant has not offered or sold the Abandoned Goods, namely, “after-shave;”  
“make-up;” “perfumery;” “cosmetics;” “cosmetic creams for skin care;” “soaps;” “essential  
oils;” “hair lotions;” and “dentifrices” in Class 3, “dietetic foods adapted for medical use;”  
“medical plasters;” and “food supplements for medical purposes, namely, mineral and vitamin  
supplements” in Class 5, “leather and imitations of leather and goods made of these materials  
and not included in other classes, namely, belts, wallets, purses, key-rings, pen holders, and  
duffel bags;” “trunks;” “parasols;” “leather cases;” “purses;” “handbags;” “key cases;” “valises;”  
“plastic baggage labels;” “pouches of leather;” “purses;” “saddlebags;” “school bags” in Class  
18, and “dresses;” “hats;” “belts;” “skirts;” “coats;” “sweaters;” “smocks;” “dressing gowns;”  
“housecoats;” “bathing suits;” “underwear;” “stockings;” “neckties;” “scarves;” “gloves;”  
“cap es;” “trousers;” “parkas;” “pajamas;” “fur coats;” “fur jackets;” “pullovers;” “garters;”  
“brassieres;” “footwear;” “shawls;” “sashes for wear;” “overcoats;” “stoles;” “dungarees;”  
“boots;” “shirts;” “breeches;” “briefs;” “jeans;” “wraparounds;” and “hosiery” in Class 25, in the  
United States under the mark  for three consecutive years.

23. Registrant has partially abandoned the mark  shown  
in Registration No. 4152198 based on non-use of the mark in commerce in the United States

with no intent either to commence or to resume use in the United States, in connection with the Abandoned Goods.

24. Accordingly, Registration No. 4152198 for the mark



should be partially cancelled based on abandonment of the Abandoned Goods under Section 45 of the Trademark Act, 15 U.S.C. § 1127.

WHEREFORE, Petitioners respectfully request that the petition for partial cancellation be sustained and that Reg. No. 4152198 be partially cancelled in connection with the Abandoned Goods.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to Deposit Account No. 06-0916.

Respectfully submitted,

Dated: June 15, 2015

/Julia Anne Matheson/  
Julia Anne Matheson  
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Attorneys for Petitioners  
ASOS PLC and ASOS.COM LIMITED

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing PETITION FOR PARTIAL CANCELLATION was served on June 15, 2015 by overnight courier, postage prepaid, on Registrant at the following address of record:

Roger MAIER  
via Bresce, 1  
CH-6854 San Pietro de Stabio  
Switzerland

/Jenny Macioge-Reilly /  
Jenny Macioge Reilly  
Case Manager